

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

LORRAINE MARTIN, individually and on
Behalf of all Others Similarly Situated,

Plaintiff,

-v-

THE HEARST CORPORTION, SOUTHERN
CONNECTICUT NEWSPAPERS INC., MAIN
STREET CONNECT, LLC, d/b/a THE DAILY
GREENWICH, and NEWS 12 INTERACTIVE,
INC.,

Defendants.

Case No. 3:12-cv-01023 (JBA)

NOW COMES Defendant Main Street Connect, LLC (“Main Street”), to move the Court to dismiss this action pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. In support thereof, Main Street states as follows:

1. The Amended Complaint asserts four counts, for libel per se, negligent infliction of emotional distress, publicity placing another in a false light before the public, and invasion of privacy. All claims are based on Main Street's August 25, 2010 on-line publication of a report concerning Plaintiff's arrest (the “report”).

2. The libel claim should be dismissed because Main Street’s publication was truthful when published, and plaintiff has not alleged otherwise. Truth is an absolute defense to a claim of libel. Plaintiff’s claim that Main Street’s report made on August 25, 2010 became false and defamatory on January 11, 2012 is unsupported.

3. Under Connecticut Code, §54-142a(c)(1) (hereinafter, the “Erasure Statute”), a truthful report of an arrest does become untruthful if the prosecutor elects not to prosecute. To

the extent that the Erasure Statute is interpreted to turn a constitutionally protect fair and truthful report of plaintiff's arrest into something that is false and defamatory, it violates the First Amendment to the United States Constitution.

4. Under the single publication rule, because Main Street's report was truthful on the date of publication and plaintiff does not allege otherwise, it cannot give rise to a cause of action for libel because no new cause of action arose simply because the original report continues to be available on the Internet.

5. The remaining counts alleged in the Amended Complaint are all premised on the alleged falsity of Main Street's report. Such claims must be dismissed where the underlying defamation count is dismissed.


WHEREFORE, for reasons outlined herein, in Defendant Main Street Connect, LLC's Memorandum Of Law In Support Of Its Motion To Dismiss The Amended Complaint, and any reply memorandum in support hereof or oral argument hereon, Defendant Main Street requests that the Court:

- A. grant this motion and dismiss Plaintiff's Complaint in its entirety with prejudice; and
- B. grant such other and further relief as the Court deems just and proper.

[Signature page follows]

Dated: October 11, 2012

Respectfully submitted,

By 
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Application for admission *pro hac vice* pending

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of October, 2012, I caused the foregoing document to be filed electronically with the court using the CM/ECF system, which will send notification of such filing to the parties listed below.

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